

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
ENTERED

JUL 10 2012

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

VS.

JAIME RAMON DE LEON-CERVANTES

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§
§
§

CRIMINAL NO. B-12-81

ORDER

BE IT REMEMBERED, that on July 9, 2012, the Court granted Defendant's oral motion to withdraw his guilty plea. This order memorializes that ruling.

Defendant is charged with one count of illegal re-entry into the United States in violation of 8 U.S.C. § 1326(a) and (b). Dkt. No. 6. On February 8, 2012, Defendant pleaded guilty by a written plea agreement. *See* Dkt. No. 13. On July 9, 2012, Defendant moved to withdraw his plea because he recently learned he may derivatively qualify for U.S. citizenship. The Government was unopposed to the motion.

A district court may permit a defendant to withdraw a guilty plea at any time prior to sentencing upon a showing of a "fair and just reason." Fed. R. Crim. P. 11(d)(2)(B); *see United States v. Hurtado*, 846 F.2d 995, 997 (5th Cir. 1988); *United States v. Benavides*, 793 F.2d 612, 616 (5th Cir. 1986). The Court found Defendant's opportunity to pursue U.S. citizenship a fair and just reason to allow withdrawal of the plea, and **GRANTED** Defendant's motion. *See* Fed. R. Crim. P. 11(d)(2)(B).

Defendant also moved, unopposed, to continue his trial settings to September. Defendant signed a waiver of his Speedy Trial Limits on July 9, 2012. Dkt. No. 21. Based on the foregoing and pursuant to the provisions of the Speedy Trial Act, the Court **GRANTED** Defendant's request finding that the "ends of justice served by taking such action[s] outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). The period of delay caused as a result of the granting of Defendant's motions shall be excluded in computing the time within which the trial of this case must commence. *Id.* § 3161(h). The case was **RESET** as follows:

Motions due by:

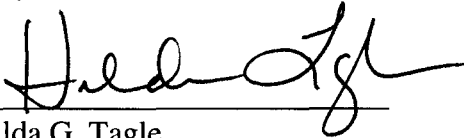
August 6, 2012

Responses due by:

August 15, 2012

Motion Hearing before Judge Recio:	August 17, 2012 at 9:00 a.m.
Docket Call and Final Pretrial Conference:	August 28, 2012 at 1:30 p.m.
Jury Selection:	August 30, 2012 at 9:00 a.m.

DONE at Brownsville, Texas, July 10, 2012.



Hilda G. Tagle
United States District Judge